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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,153	01/20/2004	Daniel G. Hess	5H06.1-011	4615
23506	7590	06/19/2006	EXAMINER	
GARDNER GROFF SANTOS & GREENWALD, P.C. 2018 POWERS FERRY ROAD SUITE 800 ATLANTA, GA 30339				GRAYSAY, TAMARA L
ART UNIT		PAPER NUMBER		
		3636		

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/761,153	HESS ET AL.	
	Examiner Tamara L. Graysay	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24,26,27 and 29-40 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 33-37 and 40 is/are allowed.
 6) Claim(s) 1-14,16,18-24,26-32,38 and 39 is/are rejected.
 7) Claim(s) 15,17 and 20 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 30 March 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Allowability Withdrawn

1. The indicated allowability of claims 1-14, 16, 18, 19 and 21-24 is withdrawn in view of the newly discovered references to:

- Seats (US-6243979)
- Fargason (US-5983913)
- Stuart (US-5617932)

Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claims 17 and 24 are objected to because of the following informalities:

Claims 17 and 24, line 2: “the” air outlet opening has been interpreted as an air outlet opening.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Stuart (US-5617932).

- a. Claim 19: Stuart discloses left and right side panels of a hunting blind that may be wrapped around a tree. Such an arrangement inherently forms a good seal, as broadly recited, insofar as animals and others cannot see the person inside the blind due to the wrapped panels. The bottom panel 13 is depicted below the hunter in FIG. 1.
- b. Claim 21: The Stuart blind includes straps (18,19,18') wrapped around the tree and tied inside the blind (e.g., FIG. 1 depicts the lower pair of straps tied inside the blind).
- c. Claim 23: There is an outlet opening in the form of a gap, as depicted in FIG. 1, between the side panels (10) and the bottom panel (13).
- d. Claim 24: The claimed structure includes an upper air inlet and a lower air outlet, depicted in Stuart FIG. 1 as an open top and the gap between the side panels (10) and the bottom panel (13). The drawn air is a statement of intended use that does not structurally define over Stuart.

4. Claims 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Seats (US-6243979).

- a. Claim 26: Seats discloses a tree-mounting bracket (e.g., 46,123) and a horizontal frame including a horizontal end member (34) and two horizontal side members (40,42)

pivotsly coupled (52) to the end member. The side members can be folded (FIG. 5) and the frame is generally U-shaped (FIG. 3).

- b. Claim 27: The bracket (46) includes two connector members (48) and the support frame includes two connector members (40C,42C) that removably mount to the bracket connector members (FIG. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-10, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979) in view of Fargason (US-5983913) and Dauphinee (previously cited, US-2511497).

- a. Claim 1: Seats discloses a hunting blind in which a hunter may be concealed (FIG. 1). Seats lacks a filtration unit to absorb human odors.

Fargason generally teaches the concept of odor elimination from a hunting blind so that animals will enter the hunting area close to the hunters when human scent has been eliminated. On a windless day, the device would not be effective. However, Dauphinee teaches the use of a portable odor absorption device whereby air is drawn

across an odorous item, such as a patient bed, in order to minimize objectionable drafts and completely remove offensive odor from a confined space (e.g., 2:23-33). The portability of the Dauphinee device suggests use in any confined area.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hunting blind of Seats to include a filtration unit, such as suggested by Fargason and Dauphinee, in order to minimize objectionable drafts and completely remove offensive odor from hunter within the confined space of the hunting blind to avoid dissipation to surrounding hunting area.

- b. Claim 2: An outlet opening is inherent in the confined area of Seats, as modified by Fargason and Dauphinee, insofar as the filtration unit exhausts the air after removing the objectionable odor.
- c. Claim 4: Dauphinee filtration unit includes a scent-elimination element (granular activated carbon 12).
- d. Claim 5: The Dauphinee device includes an air mover (axial flow exhaust fan 23).
- e. Claims 6-10: The Seats hunting blind includes a blind support adapted for mounting to a tree (FIG. 1-2). The support includes a tree mounting bracket (46) and a frame (40,34,42) that mounts to the bracket (at 48). The support frame includes an end member (34) and two side members (40,42) pivotally coupled (at 52) to the end member.

The bracket includes two connector members (48) and the frame includes two connector members (40,42) mounted to the bracket connector members (48). The bracket connector members are outwardly angled, as broadly recited, as viewed in FIG. 3, the elements (48) are outward of the tree periphery; and, the frame connector members (40,42) are inwardly angled (e.g., 40B,42B) for alignment with the bracket connectors (48) (FIG. 3).

f. Claim 12: The hunting blind of Seats includes a right panel (at support 42), a left side panel (at support 40), a front end panel (at support 34), and a bottom panel (9).

g. Claim 18: Dauphinee teaches a “remote” on/off control switch electrically connectable to the filtration unit (a plug 29 is a remote on/off control switch, as broadly recited).

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979), Fargason (US-5983913) and Dauphinee (previously cited, US-2511497) as applied to claim 1 above, and further in view of Donnelly (previously cited, US-3766844).

Claim 3: Donnelly teaches an upper air inlet and lower filtration outlet for an area requiring filtration. Placing the outlet at the lower area allows the filtration device to be supported below the area to be filtered whereby any filtration unit noise is farther from the ear of a user and in keeping with the suggestion in Dauphinee to draw air over the odorous item and suggests placing the filtration unit at the feet of a patient for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Seats, Fargason, and Dauphinee combination to include an upper inlet and lower outlet, such as suggested by Donnelly, in order to locate filtration unit noise is farther from the ear of a user.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979), Fargason (US-5983913) and Dauphinee (previously cited, US-2511497) as applied to claim 1 above, and further in view of Vickers (previously cited, US-5678247).

Claim 11: Vickers teaches the use of odor absorbing material for hunter clothing. Such an arrangement reduces or eliminates human odor when hunting where it is desirable to have an animal approach or come near to a hunter.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Seats, Fargason, and Dauphinee combination to include a scent absorbing material for the hunting blind, such as suggested by Vickers, in order to have an animal approach or come near to a hunter.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979), Fargason (US-5983913) and Dauphinee (previously cited, US-2511497) as applied to claim 1 above, and further in view of Shelton (previously cited, US-6434877).

Claim 13: Shelton teaches a plurality of panels for a blind that are detachably coupled together to permit selective detachment of at least two panels to facilitate exiting the blind and inherently permit coupling around a tree stand ladder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Seats, Fargason, and Dauphinee combination to include sectionalized panels, such as taught by Shelton, in order to selectively detach the panels for convenience of the hunting blind user when exiting the blind.

9. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979), Fargason (US-5983913) and Dauphinee (previously cited, US-2511497) as applied to claim 1 above, and further in view of Stuart (US-5617932).

a. Claim 14: Stuart teaches left and right side panels of a hunting blind that may be wrapped around a tree. Such an arrangement inherently forms a good seal, as broadly recited, insofar as animals and others cannot see the person inside the blind due to the wrapped panels.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Seats, Fargason and Dauphinee combination to include panels for wrapping the tree, such as suggested by Stuart, in order to prevent animals and others from seeing the person inside the blind.

b. Claim 16: The Stuart blind includes straps (18,19,18') wrapped around the tree and tied inside the blind (e.g., FIG. 1 depicts the lower pair of straps tied inside the blind).

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stuart US-5617932) as applied to claim 19 above, and further in view of Shelton (previously cited, US-6434877).

Claim 22: Shelton teaches a plurality of panels for a blind that are detachably coupled together to permit selective detachment of at least two panels to facilitate exiting the blind and inherently permit coupling around a tree stand ladder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shroud of Stuart to include sectionalized panels, such as taught by Shelton, in order to selectively detach the panels for convenience of the hunting blind user when exiting the blind.

11. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seats (US-6243979) as applied to claim 26 above, and further in view of Shelton (previously cited, US-6434877).

Claim 29: Shelton teaches a bracket comprising a lateral member (portion 40a as depicted in FIG. 8) two connector members (27a,27b) at opposing ends of the lateral member (see FIG. 8), two tree-mounting members (30a,30b) extending vertically from the lateral member (see FIG. 9), and a tree-circumscribing strap (the portion of the strip

between 43a and 43b as well as portion 40b as depicted in FIGS. 7-9) coupled to tree mounting members. Shelton suggests use of the particular bracket in combination with a support frame (20a,20b) that extends from the bracket for supporting a blind. The members of the bracket provide a secure connection with the irregular shaped tree trunk.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tree mounting bracket of Stuart to include a bracket having lateral member, two connector members, two tree-mounting members, and a strap, such as taught by Shelton, in order to securely connect the blind to the irregular shaped tree trunk.

12. Claims 30-32, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dauphinee (previously cited, US-2511497) in view of Neugebauer (US-2003/0012563).

a. Claims 30-32: Dauphinee discloses a filtration unit (10) comprising a scent-elimination element (granular activated carbon 12 (3:6-9)), an air mover (motor 21 and fan 22,23) for drawing scent-carrying air across the scent-elimination element and directing the now unscented air out (3:51-55). The device is adapted for use in a hunting environment insofar as the device is portable, moves air across a scent-elimination element, and exhausts unscented air.

Dauphinee lacks a portable power source.

Neugebauer teaches a portable power source and remote on/off control for a space heater. Space heater and scent-elimination systems are both capable of use in the hunting environment. The remote control enables remote modulation of the power to the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electric power source of Dauphinee to include a portable power source and remote on/off control switch, such as suggested by Neugebauer, in order to provide modulation of the power to the scent-elimination filtration unit.

The claims, as evidenced by the preamble, are drawn to the subcombination of the filtration unit alone, not in combination with the hunting blind. The recitation of the air outlet opening and air outlet opening does not define over the inlet and exhaust port of Dauphinee that is “adapted for” the use intended as broadly recited.

- b. Claims 38 and 39: The first portion of Dauphinee includes the exhaust portion 15 and the attached tubing 20 containing the air mover (23) are capable of being extendable through an opening in a hunting blind. The second portion of Dauphinee includes the canister containing the scent-elimination element (12) having a shoulder (at the end of the canister adjacent opening 15 near reference character 16) that is capable of being supported by the hunting blind.

Allowable Subject Matter

13. Claims 15, 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 33-37 and 40 are allowed.

Response to Arguments

15. Applicant's arguments with respect to claims 26, 27, 29, 30-32, 33-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ransom (US-7040335) teaches a scent containment system using scent-impervious walls.

Art Unit: 3636

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamara L. Graysay
Examiner
Art Unit 3636

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